

ENTERED

January 17, 2024

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

BEATRIZ ENRIQUEZ,

Plaintiff,

VS.

MERIDIAN SECURITY INSURANCE COMPANY,

Defendant.

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Civil Case No. 7:23-CV-00244

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the December 29, 2023, Memorandum and Recommendation (“M&R”) prepared by Magistrate Judge Peter Bray. (Dkt. No. 11). Judge Bray made findings and conclusions and recommended that Plaintiff’s Motion to Remand, (Dkt. No. 4), be granted. (Dkt. No. 11).

The Parties were provided proper notice and the opportunity to object to the M&R.

See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72. On January 12, 2024, Defendant filed objections. (Dkt. No. 12). Defendant objects to Judge Bray's consideration of Plaintiff's post-removal statements about the meaning of Plaintiff's pre-removal Spanish stipulation. (Dkt. No. 12 at 2-3). Defendant also objects to Judge Bray's conclusion that Defendant failed to carry its burden to demonstrate that the amount in controversy is greater than \$75,000. (*Id.* at 2). Defendant raises arguments that have been fully considered and fails to show any reason warranting reversal. Judge Bray did not rely on Plaintiff's post-removal stipulation. Rather, as recent Fifth Circuit authority allows, Judge

Bray relied on Plaintiff's counsel's characterization of the pre-removal stipulation, which Defendant failed to contradict. (Dkt. No. 11 at 5). Judge Bray also explained that any doubts must be resolved in favor of remand. (*Id.* at 6).

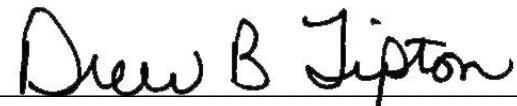
In accordance with 28 U.S.C. § 636(b)(1)(C), the Court is required to "make a de novo determination of those portions of the [magistrate judge's] report or specified proposed findings or recommendations to which objection [has been] made." After conducting this de novo review, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." *Id.*; see also Fed. R. Civ. P. 72(b)(3).

The Court has carefully considered de novo those portions of the M&R to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendations for plain error. Finding no error, the Court accepts the M&R and adopts it as the opinion of the Court. It is therefore ordered that:

- (1) Judge Bray's M&R, (Dkt. No. 11), is **ACCEPTED** and **ADOPTED** in its entirety as the holding of the Court; and
- (2) Plaintiff's Motion to Remand, (Dkt. No. 4), is **GRANTED**.
- (3) This case is **REMANDED** to the County Court at Law No. 4 of Hidalgo County, Texas.

It is SO ORDERED.

Signed on January 17, 2024.



DREW B. TIPTON
UNITED STATES DISTRICT JUDGE